LeadingAge Connecticut

Testimony to the Human Services Committee

Presented by Mag Morelli, President

February 28, 2023

Regarding

- **Senate Bill 1109, An Act Concerning Medicaid Reimbursement to Community Living Arrangements, Intermediate Care Facilities for Individuals with Intellectual Disabilities, Residential Care Homes and Nursing Facilities**
- **Senate Bill 1110, An Act Concerning Various Revisions to the Department of Social Services Statutes**
- **Senate Bill 1111, An Act Concerning Excess Nursing Home Beds and Payment for Nonpatient Care in Nursing Homes**
- **House Bill 6665, An Act Concerning the Governor's Budget Recommendations for Health and Human Services**
- **House Bill 6775, An Act Concerning Mandated Reporters**
- **House Bill 6776, An Act Concerning a Passive Medicaid Redetermination Process for Certain Aged, Blind or Disabled Recipients**

Good afternoon, Senator Lessor, Representative Gilchrest, Senator Seminara, Representative Case and Distinguished Members of the Human Services Committees. My name is Mag Morelli and I am the President of LeadingAge Connecticut. LeadingAge Connecticut is a membership association of not-for-profit and mission-driven organizations representing the entire field of aging services and senior housing. On behalf of LeadingAge Connecticut, I am pleased to testify before you today.

We have provided testimony on several of today's bills which I will just summarize, highlighting aspects of our written comments. In particular, we would like begin with our strong opposition to the request by the Department of Social Services to be granted broad and unchecked authority to change, modify or implement Medicaid payment models as is proposed in in Section 6 of Senate Bill 1110.

We are particularly concerned with this request because DSS has just informed the nursing home sector that they intend to modify the new acuity-based rate system by implementing a 5% rate withhold on all nursing home rates in order to fund a value-based payment system. The proposed rate withhold, which is essentially a 5% cut to every nursing home's per diem rate, was something determined solely by the Department and they plan to implement it without any guiding regulations and without legislative approval. We are adamantly opposed to this move by DSS and would in fact propose increasing the legislative oversight of such payment methodology changes rather than abdicating the authority to DSS as is proposed in this bill. We have also requested that another bill on today's agenda, *Senate Bill 1109,* be amended with language to prohibit this intended rate withhold.

Senate Bill 1109 is proposing changes to the nursing home rate setting statute which we believe are an attempt to clarify the rate setting process, however we would request the opportunity for further review to be sure all the necessary changes are included. Additionally, DSS proposes an effective date for the next rebasing of 2027 at the earliest, which we request be reconsidered as this would mean the next rebasing would not be for at least another eight years.

With regard to Senate Bill 1111, we would support the apparent effort to incentivize the de-licensure of nursing homes beds that are no longer in demand by reducing the per diem rate of a nursing home that experiences a resident census of under ninety percent for a full twelve-month period, but we have asked for an exemption for nursing homes that can demonstrate a demand for their vacant beds, but that have purposely not filled the beds due to the inability to staff them at a level that they believe is necessary to provide quality nursing home care. We are currently in a workforce crisis that is necessitating quality nursing home providers to self-impose restrictions on admissions so they can adequately staff for the resident population in their care. We do not want to see them punished for taking the appropriate steps to provide quality nursing home care.

Senate Bill 1111 also proposes the establishment of a new payment system for the administrative and general cost component of the current rate calculation formula through the establishment "peer groups" that will be regionally based. DSS has developed this new concept without consulting the nursing home associations and we have not been informed of the intended impact or outcome of this proposed methodology. We therefore have asked for time to study and understand its potential impact on our membership and those they serve.

Finally, we would like to thank the Governor for his support of the residential care home model as demonstrated in his recommendations contained in House Bill 6665, and voice our support of the proposal to establish a passive redetermination process for HUSKY C members as proposed House Bill 6776.

Again, we have submitted testimony on several of today's bills and we ask that you to consider our written comments as your review and debate their content. on behalf of our nonprofit, mission-driven members, we thank you for this opportunity to testify and I would be happy to answer any questions.

We respectfully submit the following written testimony:

Senate Bill 1109, An Act Concerning Medicaid Reimbursement to Community Living Arrangements, Intermediate Care Facilities for Individuals with Intellectual Disabilities, Residential Care Homes and Nursing Facilities

The nursing home reimbursement system began transitioning to a new, acuity-based rate system on July 1, 2022. Section 17b-340d, the statute that established the new rate system does not incorporate certain aspects of the existing and still relevant rate statute, Section 17b-340, that remains in force. Sections 4 and 5 of the bill are related to nursing home reimbursement and specifically propose to bring over language from Section 17b-340 into the nursing home acuity rate statute, Section 17b-340d, to clarify that previous statutory provisions continue to apply. It also would allow for rates to be established for specialized services which is something that we applaud.

We do not oppose the attempt to clarify the statutes by consolidating statutory provisions, but we are concerned that it is not a complete accounting of the clarifications needed. It appears DSS is attempting to incorporate general language on nursing home rate setting from 17b-340 into the newer acuity rate setting statute for nursing homes, 17b-340d. However, this is a highly technical area and careful attention must be paid to whether there may be other provisions in section 17b-340 that should be incorporated to ensure that nothing is missed. Also, the relationship between Section 17b-340 and 17b-340d must be clarified going forward. Will provisions of 17b-340 relevant to nursing home rate setting that are not addressed in 17b-340d still apply? For example: the ability to request interim rate relief based on financial distress that impacts resident health and safety? The ability to ask for an interim rate due to financial distress still resides in 17b-340(a) and we would argue still applies, but should this be clarified here in this proposal? LeadingAge Connecticut would support this effort to clarify the rate setting statutes and offers our assistance in such an effort.

We are also concerned about the late effective date of the rebasing statute. While we support the reinstatement of the requirement that rebasing of the rates be conducted every two to four years, the provision is proposed to go into effect on July 1, 2025. The last rebasing was done with the 2019 cost year and if this provision goes into place in 2025, the next possible rebasing would be for the 2027 cost year, which would be eight years from the most recent rebasing. **We would ask that the next rebasing be done sooner than 2027 and that the annual inflationary factor be incorporated into the intervening years' rates.**

We also request that the statute be further amended to prohibit the use of a *rate withhold* for the purpose of funding the quality payment system that is to go into effect on July 1, 2023. We urgently request this because DSS has just informed the nursing home sector that DSS intends to take a 5% rate withhold starting on July 1, 2023 for this stated purpose. In other words, DSS plans to take away 5% of each nursing home's per diem rate, as a means of funding the quality payments. This action is contrary to the intent of a quality incentive program. To reduce the daily rates by 5% will actually force a reduction in quality efforts being implemented by nursing homes right now. How does DSS expect the nursing homes to be able to work toward achieving advanced quality measure goals when they implement a rate cut that will thwart and roll back current quality efforts? **We strongly object to this 5% rate withhold.** The nursing homes already pay the state a nursing home user fee (or provider tax) of $21.02 per resident per day which raises $146 million annually for the state's general fund. An additional 5% withheld from their rate would be financially disabling and would inhibit a nursing home's ability to recruit and retain staff, initiate quality initiatives and potentially to restrict new admissions.

We propose that the statute be amended by adding to line 828 "(2) Beginning July 1, 2022, facilities will be required to comply with collection and reporting of quality metrics as specified by the Department of Social Services, after consultation with the nursing home industry, consumers, employees and the Department of Public Health. Rate adjustments based on performance on quality metrics will be phased in, beginning July 1, 2022, with a period of reporting only. <u>SUCH RATE ADJUSTMENTS SHALL NOT BE FUNDED THROUGH THE IMPOSITION OF ANY SYSTEM OF RATE WITHHOLDS</u>."

<u>Senate Bill 1110, An Act Concerning Various Revisions to the Department of Social Services Statutes</u>

We would like to raise concern and strongly oppose what appears would be the granting of a broad authority to the Department of Social Services to independently implement any new payment methodology within the Medicaid system. This is language is proposed in lines 395 through 406 of this bill. In this section, the Department seeks the authority to implement a bundled payment for maternity services, but the section would <u>also</u> authorize the Department to implement, "any other alternative payment methodology or combination of methodologies that the commissioner determines are designed to improve health quality, equity, member experience, cost containment and coordination of care." It would also allow them to implement such payment methodologies *prior* to any regulatory approval process. **This is a much too broad and unchecked authority to grant the Department and would allow them to change, modify or implement provider payment models at will. <u>We strongly oppose this language if it indeed is intended to grant this broad authority.</u>**

We are particularly concerned in that the Department of Social Services has just informed the nursing home sector that they intend to modify the new acuity-based rate system by implementing a 5% rate withhold on all nursing home rates in order to fund a value-based payment system. The proposed nursing home rate withhold, which is essentially a 5% cut to every nursing home's per diem rate, was something determined solely by the Department and they plan to implement it without any guiding regulations and without legislative approval. **We are adamantly opposed to this move by DSS and would propose increasing the legislative oversight of such payment methodology changes rather than abdicating the authority to DSS as is proposed in this bill.**

<u>Senate Bill 1111, An Act Concerning Excess Nursing Home Beds and Payment for Nonpatient Care in Nursing Homes</u>

This first portion of this bill appears to be an attempt to incentivize the de-licensure of nursing homes beds that are no longer in demand reducing the per diem rate of a nursing home that experiences a resident census of under ninety percent for a full twelve-month period. We would not object to this proposal as we support the concept of rightsizing our nursing home bed supply, but we do ask for it to be in effect for no more than five years, so that the legislature can review it at that time to determine if it is effective and worthy of extending. **<u>More importantly</u>, we also ask for an exemption for nursing homes that can demonstrate a demand for their vacant beds, but that have purposely not filled the beds due to the inability to staff them at a level that they believe is necessary to provide quality nursing home care.** We are currently in a workforce crisis that is necessitating quality nursing home providers to self-impose restrictions on admissions so that they can adequately staff for the resident population in their care.

The bill then proposes (in lines 86-116) the establishment of a new payment system for the administrative and general cost component of the current rate calculation formula. The change in the management and general cost component appears to be grounded in the establishment "peer groups" that will be regionally based. The intent stated in this section is to "ensure geographic access and available capacity." The Department of Social Services has developed this new concept without consulting the nursing home associations and we have not been informed of the intended impact or outcome of this proposed methodology. **We therefore reserve our right to comment until such time as we can study and understand its potential impact on our membership and those they serve.**

House Bill 6665, An Act Concerning the Governor's Budget Recommendations for Health and Human Services

The Governor's recommendations included in this bill for both retroactive eligibility for state supplemental benefits and increased reimbursement rates for the RCH setting indicate strong support for the preservation, advancement and improvement of the RCH model and we strongly support them. LeadingAge Connecticut's membership includes providers of residential care homes (RCH) that are integrated on campuses which provide a full continuum of services and supports for older and disabled adults. The RCH can provide an attractive and affordable living option as it offers a basic array of supportive services and qualifying older adults can also receive additional long-term services and supports through the Connecticut Home Care Program for Elders. In addition, the state is currently taking action to allow other waiver services to be provided at an RCH that is classified as a community-based setting. We thank the Governor for his support of the RCH setting and we encourage the Committee to support these provisions of the bill.

The bill also proposes to freeze the statutory inflationary updates to the nursing home rates for the next two years of the biennium while the acuity rates system completes the three-year phase-in of the new rates that were rebased using the 2019 cost reports. While appreciative of the proposal for the rebased rate funding, we do caution against ignoring the statutory inflationary factor which will ensure that the rates keep up with the current costs of care.

House Bill 6775, An Act Concerning Mandated Reporters

This bill proposes to add additional mandated reporters of suspected abuse, abandonment, neglect or exploitation of older adults and we have no objection to this proposal.

House Bill 6776, An Act Concerning a Passive Medicaid Redetermination Process for Certain Aged, Blind or Disabled Recipients

We support this proposal to implement a passive Medicaid redetermination process for Medicaid recipients who have qualified for Husky C coverage. Medicaid eligibility for the aged, blind and disabled coverage, or Husky C, involves a rigorous application process and requires individuals to spend down to very low asset limits. Husky C recipients, such as nursing home residents, are required to spend a large portion of their monthly income, such as social security and pension payments, toward their long-term care expenses. Nursing home residents are allowed to keep a monthly personal needs allowance of just $72.75.

The initial application process for Husky C is lengthy, detailed and requires a five year look back of finances. The initial application and the annual redetermination process often require the assistance of family members, conservators or acquaintances. Delays in the provision of documentation and information needed for the redetermination can cause interruptions in payments which cause financial distress to the nursing home or other provider, and *yet it is a very rare occasion that the financial status of the Husky C client has changed within the year.* We therefore believe it would be to the benefit of the client, their family and the long-term care provider for the state to establish a process of passive redeterminations for Husky C coverage.

Respectfully submitted, Mag Morelli, President, LeadingAge Connecticut, mmorelli@leadingagect.org